



**JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

***Case Summary***

Period: September 2011

Edition: 27 September 2011

**Summary of cases dealt with by the Oecusse District Court in  
September 2011**

JSMP conducted court monitoring for four days at the Oecusse District Court between 13-16 September 2011. Based on the monitoring conducted by JSMP at the aforementioned district court, all of the cases scheduled for trial were heard in accordance with the court schedule.

Based on the court schedule, 6 cases were scheduled to be heard during a one week period. These cases comprised two cases of domestic violence and four cases of light maltreatment. From these six cases, 2 hearings took place, and in the other four cases the court only validated amicable agreements that the parties (victims and defendants) had entered into.

According to the court schedule, six hearings were supposed to take place; however two of the cases had two separate hearings, including the announcement of the final decision. Therefore, this case summary refers to 8 separate hearings.

Just like in previous editions, this case summary aims to disseminate information to the entire community about the trial of cases registered at the district courts, and this edition focuses on the Oecusse District Court.

In this way JSMP hopes to help the community in Timor-Leste to understand the processes taking place in the courts, especially those that have a direct interest in the cases that are being heard by the aforementioned court.

The following information summarizes the hearings conducted during the aforementioned period.

### **1. Domestic Violence, Case No. 01/PCO/2011/TDO**

On 13 September 2011 the Oecusse District Court settled Case No. 01/PCO/2011/TDO involving domestic violence. The defendant CNQ was accused of committing the crime against the victim FS in Maonesi Sub-Village, Naimeco Village, Pante Makasar Sub-District, Oecusse District on 2 January 2010.

This hearing was presided over by single judge António Helder da Costa and the public prosecution service was represented by Jacinto Babo Soares, while the defendant was represented by public defender Calisto Tout.

In this case the victim and the defendant testified that they had entered into an amicable agreement based on Timorese customary law which is a well-established practice in the aforementioned village. In the amicable agreement the defendant gave two buffaloes to the victim to compensate the victim for her injuries, in accordance with the local custom in Oecusse.

Previously the public prosecutor had charged the defendant with Article 145.1 and 145.2 of the Penal Code.

### **2. Light Maltreatment, Case No. 03/PCO/2011/TDO**

On 13 September 2011 the Oecusse District Court conducted a hearing in a case of light maltreatment registered as Case No. 03/PCO/2011/TDO. This alleged crime was committed by the defendant JNE against the victim AA in Naubatan Sub-Village, Naimeco Village, Pante-Makassar Sub-District, Oecusse District on 30 September 2010.

This hearing was presided over by single judge António Helder da Costa, and the public prosecution service was represented by Jacinto Babo Soares, while the defendant was represented by public defender Calisto Tout.

Similar to the aforementioned case, the court decided to resolve this case because the defendant and victim have entered into an amicable agreement in accordance with their customary law. As part of this amicable agreement the defendant gave USD 25 to the victim to compensate her for her injuries and as an apology for his poor behavior towards her.

The court accepted the agreement entered into by the parties prior to the hearing; however the court also asked the defendant not to repeat his actions in the future.

### **3. Domestic Violence, Case No. 07/PCO/2011/TDO**

On 13 September 2011 the Oecusse District Court tried Case No. 07/PCO/2011. The crime was alleged committed by the defendant FP against the victim FP who is his wife, in Sanane Sub-Village, Costa Village, Pante Makassar Sub-District, Oecusse District on 15 September 2010.

The trial was presided over by single judge António Helder da Costa and the public prosecution service was represented by Jacinto Babo Soares, while the defendant was represented by public defender Calisto Tout.

According to the prosecutor's indictment, on 15 September 2010 the defendant and the victim argued because the defendant suspected the victim have having a relationship with another man. Therefore the defendant was angry and hit the victim on her back with a shoe and then pushed the victim with force causing her to fall to the ground. As a result of the aforementioned act, the victim suffered an injury to her head and was in pain.

The prosecutor charged the defendant under Articles 2.1, 2.2 and 35 of Law No. 7/2010 Against Domestic Violence as well as Article 145 of the Penal Code.

In this hearing the victim and defendant chose to use their right to remain silent. Witnesses summoned to the court did not appear and therefore the court decided to give time to the prosecutor to make his final recommendation of sentence.

Although the victim and defendant exercised their right to remain silent, in his final recommendation of sentence the prosecutor maintained his request for the court to issue a fair decision in this matter, so that similar acts would not be repeated in the future.

The announcement of the decision was scheduled for 16 September 2011 at 09:00am.

#### **4. Light Maltreatment, Case No. 09/PCO/2011/TDO**

On 14 September 2011 the Oecusse District Court conducted a hearing in Case No. 09/PCO/2011/TDO involving light maltreatment. This case involved 2 defendants JLS and GLS who allegedly committed the crime against the victim JK in Kabana Sub-Village, Suni Ufe Village, Nitibe Sub-District, Oecusse District on 23 May 2010.

The trial was presided over by single judge António Helder da Costa and the public prosecution service was represented by Afonso Lopes, while the defendant was represented by public defender Calisto Tout.

Based on the prosecutor's indictment, on 15 May 2010 at approximately 8pm the defendant and victim had an argument about two large trees that were cut down by the defendant. According to the victim the trees were close to a spring that was regularly used by everyone for drinking water and also used to water their livestock. However, the defendant did not accept that the victim had planted the tree. The defendant became angry as a result of the argument and then choked the victim (JK) with force. Also, not long after, the defendant GLS who is the son of the defendant JSL, grabbed the victim and threw him to the ground. As a result of the actions of the defendants the victim suffered an injury to his head and pain all over his body and had to be given medical attention at the hospital.

The witness AS testified that he saw the defendants JLS and GLS choke the victim and throw him on the ground, however he didn't know what the source of the dispute was. Several days later the witness found out from the victim that the defendants assaulted the victim because of an argument between them about the tree that was cut down by the defendants.

In his final recommendation the prosecutor stated that the testimony provided by the witness and the victim showed that the victim had been assaulted by the defendants. Therefore the prosecutor requested for the court to issue a fair punishment against the defendants for violating Article 145 of the Penal Code.

The final decision in this case will be announced on 16 September 2011 at 09:00am.

#### **5. Light Maltreatment, Case No. 15/PCO/2010/TDO**

On 14 September 2011 the Oecusse District Court conducted a hearing to validate Case No. 15/PCO/2010/TDO. This case involved 2 defendants JOQ and AQ who allegedly assaulted three victims KC, DD and PL in Biseo Sub-Village, Cunha Village, Pante Makassar Sub-District, Oecusse District. This incident allegedly occurred on 11 September 2010.

The trial was presided over by single judge António Helder da Costa, and the public prosecution service was represented by Afonso Lopes, while the defendant was represented by public defender Calisto Tout.

Before the hearing started the parties agreed to an amicable settlement because they are siblings. As part of the amicable settlement the defendant agreed to give US\$ 60 to the victims as well as one bottle of alcohol and a pig as compensation in accordance with the customary law in Oecusse.

#### **6. Light Maltreatment, Case No. 10/PCO/TDO**

On 14 September 2011 the Oecusse District Court was convened to hear Case No. 10/PCO/TDO involving the defendant who allegedly committed the crime against the victim AF in Santa Rosa Village, Pante Makassar Sub-District, Oecusse District on 30 September 2010.

The trial was presided over by single judge António Helder da Costa and the public prosecution service was represented by Afonso Lopes, while the defendant was represented by public defender Calisto Tout.

The hearing in this case did not eventuate because the parties had chosen an amicable settlement in accordance with their customary law. Therefore the court accepted this agreement because this crime is categorized as a minor offence.

#### **7. Domestic Violence, Case No. 07/PCO/2011/TDO**

On 16 September 2011 the Oecusse District Court conducted a hearing to announce the final decision in a case of domestic violence. Previously on 13 September 2011 the court conducted a hearing in this case to hear the final recommendation of the public prosecutor.

This hearing was presided over by single judge António Helder da Costa. The public prosecution service was represented by Afonso Lopes, and the defendant was represented by public defender Calisto Tout.

No witnesses appeared before the court to give testimony in this case and also the victim and defendant chose to remain silent during the trial in accordance with Articles 66 and 125 of the Criminal Procedure Code. Therefore, there was not enough evidence to convince the court and the defendant was acquitted from the prosecutor's charges, or in other words the court decided to acquit the defendant from all legal charges in this matter.

### **8. Light Maltreatment, Case No. 09/PCO/2011/TDO**

On 16 September 2011 the Oecusse District Court conducted a hearing to announce the final decision in Case No. 09/PCO/2011/TDO involving light maltreatment.

Previously on 14 September 2011 the court convened to hear the final recommendation of the public prosecutor.

The trial was presided over by single judge António Helder da Costa and the public prosecution service was represented by Afonso Lopes, while the defendant was represented by public defender Calisto Tout.

Based on the final decision that was announced by the court, the defendants were found guilty of the criminal charge presented by the prosecutor, namely for choking the victim and throwing him on the ground which resulted in the victim suffering an injury to his head and pain all over his body. According to the indictment, the incident occurred at approximately 8pm on 15 September 2010. Therefore, the court concluded that the defendants had violated Article 145 of the Penal Code.

Based on the aforementioned facts, the court sentenced the two defendants to 3 months imprisonment to be suspended for one year and six months. The court also advised the defendants of the ramifications if they commit another crime during the next one year and six months.

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